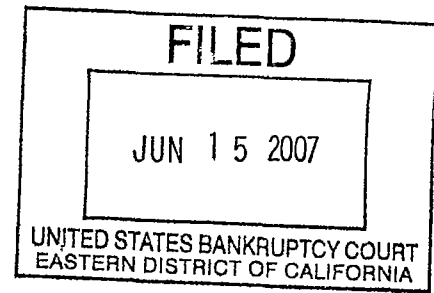


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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA

In re)	Case No. 05-22932-C-7
)	
SAMUEL H. HONEA)	MC No. DPS-1
)	
Debtor.)	
_____)	

**FINDINGS OF FACT AND CONCLUSIONS OF LAW
ON MOTION FOR RELIEF FROM AUTOMATIC STAY NOT INTENDED FOR
PUBLICATION**

These findings of fact and conclusions of law, which are not intended for publication, are rendered in this contested matter pursuant to Federal Rule of Civil Procedure 52 as incorporated by Federal Rules of Bankruptcy Procedure 7052 and 9014.

Jurisdiction

Jurisdiction is founded upon 28 U.S.C. § 1334. This is a core proceeding. 28 U.S.C. § 157(b)(2)(G).

83

Findings of Fact

Debtor filed his voluntary chapter 7 petition on March 17, 2005. He scheduled a 2003 Harley-Davidson Motorcycle FXDL Dyna Low Rider ("vehicle") as property of the estate. The first meeting of creditors was held on April 26, 2005. The chapter 7 trustee filed a report finding that there is property available for distribution from the estate over and above that exempted by the debtor. On March 6, 2006, the court denied Debtor's discharge pursuant to 11 U.S.C. § 727(a)(2), § 727(a)(4)(A), § 727(a)(4)(D), and 727(a)(5).

On May 10, 2007, Harley-Davidson Credit ("movant") filed a motion, notice, and declaration requesting that this court vacate the automatic stay to permit movant to repossess the vehicle. The National Automobile Dealers Association Appraisal Guide for Motorcycles (online) value of the vehicle is approximately \$11,275.00. Movant holds a lien on the vehicle in the approximate amount of \$14,026.58. There is no evidence of any other liens against the vehicle. Movant sent notice of the motion to the debtor at the wrong address (wrong apartment number) and movant did not sent notice to the trustee's attorney of record.

No opposition to the motion was filed within the time prescribed by Local Bankruptcy Rule 9014-1(f)(1). The parties have consented to taking evidence by affidavit and have not demonstrated that there is any disputed material factual issue that would warrant an evidentiary hearing. See L. Bankr. R. 9014-1(f)(1). The evidentiary record is closed. Id.

Upon review of the record, the court determined that

1 the written record was adequate and that no oral argument is
2 necessary.

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4 Conclusions of Law

5 The automatic stay of acts against debtor in personam
6 expires when the debtor is granted a discharge. 11 U.S.C.
7 § 362(c)(2)(C). Acts against property of the estate remain
8 stayed until the earliest of the time when the bankruptcy case
9 is closed, dismissed, or the property ceases to be property of
10 the estate. 11 U.S.C. § 362(c). The automatic stay may be
11 terminated earlier if debtor fails to protect the secured
12 party's interest adequately, § 362(d)(1), and, with respect to
13 a stay of an act against property, debtor does not have equity
14 in the property, § 362(d)(2)(A), and the property is not
15 necessary to an effective reorganization. 11 U.S.C. §
16 362(d)(2)(B). The issue of whether the property is necessary
17 to an effective reorganization is not considered in a chapter 7
18 case because no reorganization is contemplated in a chapter 7
19 case.

20 Although the debtor does not appear to have any equity
21 in the vehicle, since the debtor was denied a discharge, the
22 automatic stay has expired as to the debtor under
23 § 362(c)(2)(C). Thus, the motion insofar as it is directed at
24 the interest of the debtor is moot and will be denied. Under
25 these circumstances, the defect in movant's service does not
26 make a difference.

27 However, the motion will be granted as to the interest
28 of the trustee.

1 An appropriate order will issue.

2 Dated: June 15, 2007



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5 UNITED STATES BANKRUPTCY JUDGE
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CERTIFICATE OF SERVICE

On the date indicated below, I served a true and correct copy(ies) of the attached document by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed and by depositing said envelope in the United States mail or by placing said copy(ies) into an interoffice delivery receptacle located in the Clerk's Office.

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Sacramento, CA 95814

Dated: 06/18/07


Deputy Clerk